

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Gregg Wagner et al.

Serial Number: 09/854,344

Art Unit: 2877

Filed: May 11, 2001

Examiner: Fannie L. Evans

For: HANDHELD, PORTABLE COLOR MEASURING DEVICE WITH DISPLAY

**COMBINATION DECLARATION UNDER 37 CFR 1.132,
AMENDMENT UNDER 35 U.S.C. 116 by 37 CFR 1.48(b) and
CORRECTED DECLARATION OF INVENTORSHIP**

The undersigned patent attorney declares that claims 1-20 of the subject patent application has been rejected under 35 U.S.C.102(e) based on U.S. Patent 6,157,454 to Wagner et al. That claims 3, 9, 17 and 18 have now been canceled by amendment. That Robert Stewart was a co-inventor of the subject matter found in claims 3, 9, 17 and 18. That Gregg Wagner and Gary Emerson are the true co-inventors of the subject matter found in claims 1, 2, 4-8, 10-16 and 19-20. That Robert Stewart has been removed as an inventor of the subject patent application by Amendment under 35 U.S.C. 116 and Corrected Declaration as filed herein. That Gregg Wagner and Gary Emerson are the same two inventors of the subject matter found in claims 1, 2, 4-8, 10-16 and 19-20 that may be disclosed in U.S. Patent 6,157,454 but not claimed in this patent. And that the examiner's rejection of the original non-cancelled claims under 35 U.S.C. 102(e) should now be removed as a reference since the invention described in the claims is not "by another".

That Gregg Wagner and Gary Emerson declare that they are citizens of the United States of America and they are residents of the United States of America, That they verily believe that they are the original, first, and sole inventors of the subject invention entitled

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"HANDHELD, PORTABLE COLOR MEASURING DEVICE" described in the specifications, shown in the drawings and described in claims 1, 2, 4-8, 10-16 and 19-20 of the subject patent application and under 37 CFR 1.48(b), That they have reviewed and understand the contents of the specifications, claims and any amendments to the specifications and claims.

That they do not know and do not believe that the invention was ever known or used in the United States before our invention thereof, or more than one year prior to this application, or in public use or on sale in the United States more than one year prior to this application;

That they acknowledge their duty to disclose information of which they are aware and which is material to the examination of this application in accordance with Title 37 C. F. R. 1.56(a); That the subject invention has not been patented or made the subject matter of an inventor's certificate issued before the date of this application in any country foreign to the United States on an application filed by us or our legal representatives or assigns more than six months prior to this application; and

That no application for patent or inventor's certificate on the subject invention has been filed by them or our representatives or assigns in any country foreign to the United States.

The undersigned patent attorney declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted.

Edwin H. Crabtree 4/27/2004

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